

INTRADEPARTMENTAL CORRESPONDENCE

November 20, 2018
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TO: The Honorable Board of Police Commissioners

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OFFICE OF THE INSPECTOR GENERAL

FROM: Chief of Police

SUBJECT: OFFICER INVOLVED SHOOTING FID NO. 006-18 (ANIMAL)

Honorable Members:

The following is my review, analysis and findings for Officer Involved Shooting (OIS), Force Investigation Division (FID) No. 006-18. On October 18, 2018, this case was presented to the Chair of the Use of Force Review Board (UOFRB) who considered the totality of the circumstances surrounding the incident and made recommendations as to the outcome.

I have adopted the recommendations from the Chair of the UOFRB for this incident. I hereby submit my findings in accordance with Police Commission policy.

SUMMARY¹

On January 24, 2018, Officer F. Rodriguez, Serial No. 42348, Van Nuys Patrol Division, was off-duty, driving south on Johnson Drive toward Partridge Drive, in the City of Ventura.

According to Officer Rodriguez, in his *peripheral vision*, he observed what he *believed* to be a *young female or young child*, later identified as M. Nichols, *on the ground* with a *dog*. He further observed a male, later identified as C. Webb, *hovering over* Nichols and the dog.

Note: The investigation revealed that Nichols was walking her Yorkshire Terrier dog, on a leash, when a Pit Bull dog ran towards her and grabbed ahold of her dog. Webb ran across the street, helped Nichols free her dog, and restrained the Pit Bull by its collar. As Nichols ran away carrying her dog, the Pit Bull broke free from Webb, and ran toward Nichols. As the Pit Bull jumped up on Nichols, Nichols held her dog above her head with her left hand to keep it away from the Pit Bull. The Pit Bull then bit down on Nichols' right forearm and pulled her down to the ground.

According to Officer Rodriguez, as he continued to drive south, past Nichols, he looked in his *side view* mirror and *observed what appeared to be an animal biting* Nichols. He then observed that Webb was *waving his hands* and *shouting*. Officer Rodriguez could not hear what Webb was shouting because the vehicle *windows* were rolled up. Officer Rodriguez further observed

¹ The summary and the investigation completed by FID for this incident have been provided to the Board of Police Commissioners.

another female, later identified as M. Zeir, *shouting and walking northbound* toward Nichols' location.

According to Officer Rodriguez, he *conducted a U-turn*. As he drove towards Nichols' location, Officer Rodriguez observed that Nichols was *curled up on the ground in a defensive posture* with a *vicious brown Pit Bull, approximately 100-120 pounds, actively biting one of her limbs*. Nichols was *screaming, shouting*, and had *blood all over her arm*. Webb was *frantically attempting to pull the dog off Nichols*.

According to Officer Rodriguez, he *stopped* his vehicle in the roadway, *approximately 20 feet* from where the Pit Bull was attacking Nichols. Officer Rodriguez then *exited* his vehicle, *opened the trunk*, and obtained his service pistol and *police identification (Drawing/Exhibiting)*.

Note: According to Officer Rodriguez, he *lost sight of what was going on for approximately five seconds* as he obtained his service pistol from his trunk.

According to Officer Rodriguez, when he re-gained a visual of the scene, he observed that the Pit Bull was now *approximately six feet away* from Nichols. Zeir was *attempting to pull the dog back to prevent it from re-engaging Nichols*. Officer Rodriguez observed that the Pit Bull was *aggressive, growling*, and its *legs were tense*.

According to Officer Rodriguez, as he *approached* the scene, he *identified* himself verbally and also by displaying his police identification. Officer Rodriguez repeatedly *asked* if anyone owned the Pit Bull and no one came forward. At that point, he observed that Zeir was *losing control of* the Pit Bull. The Pit Bull was *facing and fixating his eyes* towards Nichols. Officer Rodriguez *shouted three of four times for everyone to get back*. Officer Rodriguez *redeployed*, from the roadway to the *sidewalk*, to ensure his background was clear.

According to Officer Rodriguez, he observed that the Pit Bull was now approximately eight to ten feet from Nichols. The Pit Bull's *body and legs were tense*, its *hair was sticking up*, and it was *showing its teeth and growling*. At that point, Zeir *lost her grip* on the Pit Bull. *In fear* that the Pit Bull was *about to run in Nichols' direction and bite her again*, he fired one round from his service pistol at the Pit Bull to stop the threat (**Lethal Use of Force**).

According to Officer Rodriguez, after firing, he *assessed* and observed the Pit Bull *turn* in his direction and *fixate its eyes* on him. The Pit Bull was *still aggressive, growling, barking*, and *showing its teeth*. Believing that the Pit Bull was *going to attack and bite him*, Officer Rodriguez fired two rounds from his service pistol at the Pit Bull to stop the threat (**Lethal Use of Force**).

According to Officer Rodriguez, after firing, the Pit Bull *fell to the ground*. He then *assessed the situation* and observed that Nichols' *right arm was severely covered in blood*. After ensuring that none of the other civilians were injured, Officer Rodriguez borrowed a cellular telephone from an unidentified civilian and reported the incident to the 911 operator. He then *placed* his

service pistol into his *waistband* and waited for the arrival of Ventura Police Department (VPD) personnel (**Additional Tactical Debrief Topics – Utilization of a Holster**).

Note: The investigation revealed that VPD personnel conducted an investigation and completed an incident report.

Officer Rodriguez telephoned Lieutenant G. Hoyte, Serial No. 25322, Watch Commander, Van Nuys Patrol Division, and notified him of the incident.

Ventura Fire Department personnel responded and transported Nichols to Ventura County Medical Center where she underwent surgery for a severe dog bite to her right arm. Nichols was expected to undergo several additional surgeries for skin grafts and reconstruction of her right arm.

Sergeant M. Goldberg, Serial No. 36672, Van Nuys Patrol Division, responded and assumed the role of Incident Commander. Sergeant Goldberg obtained a Public Safety Statement from Officer Rodriguez.

Ventura County Animal Services Officer A. Hoffman, Serial No. 756, responded and transported the deceased Pit Bull to the Ventura County Animal Services Main Facility.

FINDINGS

Tactics – Tactical Debrief, Officer Rodriguez.

Drawing/Exhibiting – In Policy, No Further Action, Officer Rodriguez.

Lethal Use of Force – In Policy, No Further Action, Officer Rodriguez.

ANALYSIS²

Detention

Does not apply.

Tactics

Department policy relative to Tactical Debriefs is: “The collective review of an incident to identify those areas where actions and decisions were effective and those areas where actions and decisions could have been improved. The intent of a Tactical Debrief is to enhance future performance” (Los Angeles Police Department Manual, Volume 3, Section 792.05).

² The analysis reflects my recommendations as supported by the preponderance of the evidence established by the investigation.

The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

Tactical De-escalation

Does not apply.

During the review of the incident, the following Debriefing Topics were noted:

- Dog Encounters

Additional Tactical Debrief Topics

Utilization of a Holster – The investigation revealed that after the OIS, Officer Rodriguez placed his service pistol in his waistband without a holster. Officer Rodriguez is reminded that there is a heightened concern for an unintentional discharge when carrying a firearm with no manner to secure/holster the firearm. I will direct this be a topic of discussion during the Tactical Debrief.

Command and Control

There were no Command and Control issues identified.

Tactical Debrief

Each tactical incident also merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made. A Tactical Debrief is the appropriate forum for the involved personnel to discuss individual actions that took place during this incident.

Therefore, I will direct that Officer Rodriguez attend a Tactical Debrief and that the specific identified topics are discussed.

Note: Additionally, the Tactical Debrief shall also include the following mandatory discussion points:

- Use of Force Policy;
- Equipment Required/Maintained;
- Tactical Planning;
- Radio and Tactical Communication (including Code Six);
- Tactical De-Escalation;
- Command and Control; and,
- Lethal Force.

General Training Update (GTU)

On February 1, 2018, Officer Rodriguez attended a GTU. All mandatory topics were covered including Animal Encounters.

Drawing/Exhibiting

Department policy relative to drawing and exhibiting a firearm is: "An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief there is a substantial risk that the situation may escalate to the point where deadly force may be justified" (Los Angeles Police Department Manual, Volume 1, Section 556.80).

According to Officer Rodriguez, he observed that Nichols was curled up on the ground and the Pit Bull was biting one of her limbs. He exited his vehicle and obtained his service pistol from the holster on his duty belt which was secured in the trunk of his vehicle.

Officer Rodriguez recalled,

At that point, after assessing, I determined that there was a vicious dog and he was actively biting a person. At that point...I exited my vehicle, and I have my duty belt with my weapon secured in my holster in my trunk. I opened my trunk. I withdrew my firearm.³

Based on the totality of the circumstances, I have determined that an officer with similar training and experience as Officer Rodriguez, while faced with similar circumstances, would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

Therefore, I find Officer Rodriguez' Drawing/Exhibiting to be In Policy, No Further Action.

Lethal Use of Force

***Dog Shooting** - The size and speed of an animal can increase the potential of a missed shot and the possibility of an officer or bystander being critically injured by a bullet intended for the dog. An officer is authorized the use of lethal force when it's reasonable to protect him/herself or other person(s) from immediate threat of death or serious bodily injury. Consideration should be given to the background and the possibility of a ricochet. The primary target is the body mass. Officers may not use lethal force against a dog to protect property, including other animals (Los Angeles Police Department Use of Force-Tactics Directive No. 7.1, Dog Encounters, September 2014).*

³ Officer Rodriguez, Page 7, Lines 8-13.

Law enforcement officers are authorized to use deadly force to:

- *Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or,*
- *Prevent a crime where the subject's actions place person(s) in imminent jeopardy of death or serious bodily injury; or,*
- *Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall, to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury (Los Angeles Police Department Manual, Volume I, Section 556.10).*

Officer Rodriguez – 9mm, three rounds in a northerly direction, from an approximate distance of eight to ten feet.

Round One

According to Officer Rodriguez, he observed that the Pit Bull was approximately eight to ten feet from Nichols and was no longer being restrained. The Pit Bull's body and legs were tense, its hair was sticking up, and it was showing its teeth and growling. In fear that the Pit Bull was about to run in Nichols' direction and bite her again, he fired one round from his service pistol at the Pit Bull to stop the threat.

Officer Rodriguez recalled,

The female lost control of the grip of the dog. The dog was about to reengage back into the victim. And I feared that he was going to reengage, bite the victim, and cause serious bodily harm or death to the victim...I redeployed onto the sidewalk. I told everybody, "Get back, get back," approximately three to four times. Shouted it. Once I had everybody out, I pointed my weapon in a downward spiral. Fired one shot at the dog.⁴

Rounds Two and Three

According to Officer Rodriguez, after firing, he assessed and observed the Pit Bull turn in his direction and fixate its eyes on him. The Pit Bull was still aggressive, growling, barking, and showing its teeth. Believing that the Pit Bull was going to attack and bite him, Officer Rodriguez fired two rounds from his service pistol at the Pit Bull to stop the threat.

Officer Rodriguez recalled,

So since the dog had already bitten one victim...on the ground, which appeared...I believed was serious bodily injury, and then being, you know, once I fired the round, he looked angry, still upset, and, you know, training and experience, one round is not enough to - - to put

⁴ Officer Rodriguez, Page 8, Lines 11-20.

down an animal...he was coming towards me, growling, showing his teeth, and we were within close proximity...So there was one initial round. There was a break, assess. And then two shots in succession.⁵

So, after I fired one round, the dog then turned his body towards me, fixated, still growling, showing his teeth, demeanor, aggressive posture...at that point, I believed I was in imminent threat of, you know, getting bitten myself. And since I didn't have any other tools on me it was the last resort, I had to fire off two rounds, sir.⁶

Based on the totality of the circumstances, I have determined that an officer with similar training and experience as Officer Rodriguez, would reasonably believe that the attacking dog represented an immediate threat of death or serious bodily injury to Nichols and himself, and that the Use of Lethal Force would be justified.


Therefore, I find Officer Rodriguez' Use of Lethal Force to be In Policy, No Further Action.

Audio/Video Recordings

Digital In-Car Video System (DICVS)/Body Worn Video (BWV) – Officer Rodriguez was off-duty, and therefore, not equipped with DICVS or BWV at the time of the incident.

Ventura Police Department personnel were equipped with BWV cameras. However, they arrived after the OIS occurred.

Respectfully,


MICHEL R. MOORE
Chief of Police

Date: 11-20-18

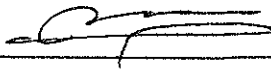
⁵ Officer Rodriguez, Page 43, Lines 5-23.

⁶ Officer Rodriguez, Page 42, Lines 9-16.

LOS ANGELES POLICE DEPARTMENT
USE OF FORCE REVIEW BOARD REPORT

INC No. 006-18	CF No.	DR No. 18-9906884
OIS - Animal (Dog)		

REVIEW BOARD INFORMATION

Location of Incident 1571 Johnson Drive	RD 9999	Date of Incident January 24, 2018	Date and Time of Board Review October 18, 2018 0900 Hours
Chair Assistant Chief J. Villegas, Serial No. 26714	Signature of Approving Board Members: 		
Member (Office Representative)			
Member (Police Sciences and Training Bureau)			
Member (Bureau)	<div style="text-align: center;"> RECEIVED NOV 26 2018 OFFICE OF THE INSPECTOR GENERAL </div> <div style="position: absolute; right: 0; top: 0; transform: rotate(90deg); transform-origin: right top;"> RECEIVED POLICE COMMISSION 2018 NOV 20 PM 3:34 </div>		
Member (Peer)			
Presenting Commanding Officer			
Notes:			
Additional Considerations:			
Modification to Present Policy, Practices or Training:			
<div style="text-align: right;"> COP Date Signed: <u>11-20-18</u> PC Date Submitted: <u>11-20-18</u> </div>			

Employee (Last Name, First, Middle) Rodriguez, Felix		Serial No. 42348	Rank/Class Police Officer II	Incident No. 006-18
Length of Employment 2 years, 1 month		Current Division Van Nuys	Time in Current Division 1 year, 3 months	
Use of Force Review Board		Chief of Police		Police Commission
Tactics <input type="checkbox"/> Does Not Apply <input checked="" type="checkbox"/> Tactical Debrief <input type="checkbox"/> Administrative Disapproval		Tactics <input type="checkbox"/> Does Not Apply <input checked="" type="checkbox"/> Tactical Debrief <input type="checkbox"/> Administrative Disapproval		Tactics <input type="checkbox"/> Does Not Apply <input type="checkbox"/> Tactical Debrief <input type="checkbox"/> Administrative Disapproval
Drawing and Exhibiting the Firearm <input type="checkbox"/> Does Not Apply <input checked="" type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)		Drawing and Exhibiting the Firearm <input type="checkbox"/> Does Not Apply <input checked="" type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)		Drawing and Exhibiting the Firearm <input type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)
Lethal Use of Force <input type="checkbox"/> Does Not Apply <input checked="" type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)		Lethal Use of Force <input type="checkbox"/> Does Not Apply <input checked="" type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)		Lethal Use of Force <input type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)
Less-Lethal Use of Force <input checked="" type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)		Less-Lethal Use of Force <input checked="" type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)		Less-Lethal Use of Force <input type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)
Non-Lethal Use of Force <input checked="" type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)		Non-Lethal Use of Force <input checked="" type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)		Non-Lethal Use of Force <input type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)
Unintentional Discharge <input checked="" type="checkbox"/> Does Not Apply <input type="checkbox"/> Accidental <input type="checkbox"/> Negligent (Administrative Disapproval)		Unintentional Discharge <input checked="" type="checkbox"/> Does Not Apply <input type="checkbox"/> Accidental <input type="checkbox"/> Negligent (Administrative Disapproval)		Unintentional Discharge <input type="checkbox"/> Does Not Apply <input type="checkbox"/> Accidental <input type="checkbox"/> Negligent (Administrative Disapproval)
Other Issues <input checked="" type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)		Other Issues <input checked="" type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)		Other Issues <input type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)
Notes:				
Final Adjudication for Out of Policy/ Administrative Disapproval Finding <input type="checkbox"/> Extensive Retraining <input type="checkbox"/> Notice to Correct Deficiencies <input type="checkbox"/> Personnel Complaint		Notes:		
<input checked="" type="checkbox"/> Employee's Work History Reviewed				

***A Tactical Debrief shall be conducted for all Categorical Use of Force Incidents.**